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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/482,154	01/12/2000	Craig T. Hall	LEANP001	6622

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EXAMINER

NGUYEN, NGA B

ART UNIT PAPER NUMBER

3628

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/482,154

Applicant(s)
Hall et al.

Examiner
Nga B. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 12, 2000
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22, 40-45, and 76-86 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22, 40-45, and 76-86 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3, 4 20) ☐ Other:

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DETAILED ACTION

1. This Office Action is the answer to the Election filed on November 4, 2002, which paper has been placed of record in the file.
2. Claims 23-39 and 46-75 are canceled. Claims 1-22, 40-45, and 76-86 are pending in this application.

Claim Rejections - 35 USC § 112

- 3 The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5, 11, 16, 22, 45, 81, and 86 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicants regard as their invention.

Claims 5, 11, 16, 22, 45, 81, and 86 provide for the use of claims 1, 6, 12, 17, 45, 76, and 82, respectively, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 5, 11, 16, 22, 45, 81, and 86 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper

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definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example Ex parte Dunki, 153 USPQ 678 (Bd.App. 1967) and Clinical Products, Ltd. v. Brenner, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1-8, 10, and 11 are rejected under 35 U.S.C. 102(a) as being anticipated by CAPS Logistics Inc. (CAPS Logistics), PR Newswire.

Regarding to claim 1, CAPS Logistics discloses in a system for matching carrier capacities with shipper loads via a wide area network, a method for generating a bid for a shipper load, comprising: selecting a plurality of units of capacity; assigning a group identifier to the plurality of units of capacity; and generating a bid for the shipper load using the group identifier (page 1, lines 12-22 and 35-60, group identifier: "air, ground, water", or "bundle lane bids", lanes are combined together in logical groups to allow carriers to make multiple bids on lanes).

Regarding to claims 2, 3, CAPS Logistics further discloses the units of capacity correspond to equipment identifiers defined by a carrier representative, the equipment identifiers

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correspond to at least one of trucking capacity, aircraft capacity, shipping capacity, and rail capacity (page 1, lines 12-22).

Regarding to claim 4, CAPS Logistics further discloses generating a bid comprises generating a plurality of bid entries, each of the bid entries corresponding to one of the units of capacity (page 1, lines 35-40).

Claim 5 is written in computer program, contains the same limitations found in claim 1, therefore, is rejected by the same rationale.

Regarding to claim 6, CAPS Logistics discloses in a system for matching carrier capacities with shipper loads via a wide area network, a method for bidding on a plurality of shipper loads, comprising generating a plurality of bids corresponding to the plurality of shipper loads, each of the plurality of bids corresponding to a same unit of capacity (page 1, lines 35-60).

Claims 7, 8, 10, contains similar limitations found in claims 2-4, therefore, are rejected by the same rationale.

Claim 11 is written in computer program, contains the same limitations found in claim 6, therefore, is rejected by the same rationale.

7. Claims 76-86 are rejected under 35 U.S.C. 102(a) as being anticipated by GoLogistics.com, "New Internet Start-up will Match Empty Space of LTL Carriers with Shipper seeking Cost Savings", PR Newswire.

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Regarding to claim 76, GoLogistics.com discloses in a system for matching carrier capacities with shipper loads via a wide area network, a method for responding to bids for a shipper load corresponding to a shipper, comprising:

posting the shipper load on the system, the shipper load having an automatic acceptance price associated therewith specified by a shipper representative, the automatic acceptance price being a monetary value at and below which automatic acceptance is authorized (page 1, lines 50-65);

receiving a bid for the shipper load specifying a bid price (page 2, line 65-page 3, line 10).

the bid price is less than or equal to the automatic acceptance price, automatically accepting the bid on behalf of the shipper (page 1, lines 50-60).

Regarding to claim 77, GoLogistics.com discloses wherein posting the shipper load comprises making the shipper load available to a subset of a plurality of system users as determined from information specified by the shipper representative (page 1, lines 50-60).

Regarding to claims 78, 79, GoLogistics.com discloses notifying the shipper representative regarding acceptance of the bid, wherein notifying the shipper representative comprises at least one of transmitting an e-mail to the shipper representative, transmitting a pager signal to the shipper representative, and transmitting a message to be displayed using a system interface to the shipper representative (page 3, lines 1-10).

Regarding to claim 80, GoLogistics.com wherein the shipper load also has an automatic notify price being a monetary value at and below which automatic notification of the shipper

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representative is authorize, the method further comprising automatically notifying the shipper representative regarding the bid where the bid price is less than or equal to the automatic notify price (page 2, lines 18-25).

Claim 81 is written in computer program, contains the same limitations found in claim 76, therefore, is rejected by the same rationale.

Regarding to claim 82, GoLogistics.com in a system for matching carrier capacities with shipper loads via a wide area network, a method for responding to bids for a shipper load corresponding to a shipper, comprising:

posting the shipper load on the system, the shipper load having an automatic notify price associated therewith specified by a shipper representative, the automatic notify price being a monetary value at and below which automatic notification of the shipper representative is authorized (page 2, lines 18-25, 65-68);

receiving a bid for the shipper load specifying a bid price (page 3, lines 1-10); and
where the bid price is less than or equal to the automatic notify price, automatically notifying the shipper representative regarding the bid (page 2, lines 18-25).

Claims 83-85 contains similar limitations found in claims 76-80 discussed above, therefore, are rejected by the same rationale.

Claim 86 is written in computer program, contains the same limitations found in claim 82, therefore, is rejected by the same rationale.

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Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 9 and 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over CAPS Logistics Inc. (CAPS Logistics), PR Newswire.

Regarding to claim 9, CAPS Logistics does not disclose in response to acceptance by a shipper representative of one of the plurality of bids, making all others of the plurality of bids unavailable. However, it is well known in the art of auction process that making all others of the plurality of bids unavailable upon accepting one of the plurality of bids. For example, ubid.com accepts higher bids based on quantity of product available, making all the other lower bids "outbid". Therefore, it would have been obvious to combine feature above with CAPS Logistics for the purpose of establishing competition among bidder.

Regarding to claims 12, CAPS Logistics in a system for matching carrier capacities with shipper loads via a wide area network, a method for bidding on a plurality of shipper loads, comprising: generating a plurality of bids corresponding to the plurality of shipper loads, each of the plurality of bids corresponding to a same unit of capacity (page 1, lines 10-60). CAPS Logistics does not disclose where one of the plurality of bids is accepted, making all other of the plurality of bids unavailable. However, it is well known in the art of auction process that making

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all others of the plurality of bids unavailable upon accepting one of the plurality of bids. For example, ubid.com accepts higher bids based on quantity of product available, making all the other lower bids "outbid". Therefore, it would have been obvious to combine feature above with CAPS Logistics for the purpose of establishing competition among bidder.

Regarding to claims 13, 14, CAPS Logistics further discloses the units of capacity correspond to equipment identifiers defined by a carrier representative, the equipment identifiers correspond to at least one of trucking capacity, aircraft capacity, shipping capacity, and rail capacity (page 1, lines 12-22).

Regarding to claim 15, CAPS Logistics the same unit of capacity comprises a group comprising a plurality of units of capacity (page 1, lines 59-60).

Claim 16 is written in computer program, contains the same limitations found in claim 12, therefore, is rejected by the same rationale.

Regarding to claims 17, 21, CAPS Logistics in a system for matching carrier capacities with shipper loads via a wide area network, a method for generating a bid for a shipper load, comprising: generating the bid and the additional bids for the shipper load (page 1, claims 35-60). CAPS Logistics does not discloses designating a currently unavailable unit of capacity, the bid and the additional bids being identified as a future bid; and when the currently unavailable unit of capacity becomes available, updating the bid to a current bid. However, it is well known in the art of auction to submit a future bid on an unavailable product, and the future bid will become the current bid when the product is available. Therefore, it would have been obvious to

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combine the feature above with CAPS Logistics's for the purpose of allowing the carrier submit future bids on unavailable unit of capacity.

Claims 18-20 contain similar limitations found in claims 13-15 discussed above, therefore, are rejected by the same rationale.

Claim 22 is written in computer program, contains the same limitations found in claim 17, therefore, is rejected by the same rationale.

10. Claims 40-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collaborative Logistics Exchange (CLE), "Descartes Announces Collaborative Logistics Exchange...", Business Wire.

Regarding to claim 40, CLE discloses in a system for matching carrier capacities with shipper loads via a wide area network, a method for presenting information regarding a bid entered against a particular shipper load, the bid corresponding to a particular carrier capacity (page 1, lines 50-60). CLE does not directly teach communicating a number of shipper load against which the particular carrier capacity is currently bid. However, it is well know in the art of auction over the Internet that representing a bid history related to a particular product, a list of buyers who are currently bid on the particular product (auctions.yahoo.com, ubid.com, for example). Therefore, it would have been obvious to combine the feature above with CLE's for the purpose of providing bid history information to the carriers.

Regarding to claims 41-43, CLE further discloses the units of capacity correspond to equipment identifiers defined by a carrier representative; the equipment identifiers correspond to

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at least one of trucking capacity, aircraft capacity, shipping capacity, and rail capacity; the particular unit of capacity comprises a group comprising a plurality of units of capacity (page 1, lines 28-40).

Regarding to claim 44, CLE does not directly teach the information includes a hyperlink, and a bid history related to the particular shipper load in response to selection of the hyperlink. However, it is well know in the art of auction over the Internet that the user can select a particular product that contains the hyperlink which displays a product description and bid history related to the particular product (auctions.yahoo.com, ubid.com, for example). Therefore, it would have been obvious to combine the feature above with CLE's for the purpose bid history information to the carriers.

Claim 45 is written in computer program, contains the same limitations found in claim 40, therefore, is rejected by the same rationale.

Conclusion

11. Claims **1-22, 40-45**, and **76-86** are rejected.
12. The prior arts made of record are considered pertinent to applicant's disclosure:
(See Form PTO-892 for listed prior arts).
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nga B. Nguyen, whose telephone number is (703)306-2901. The examiner can normally be reached on Monday-Thursday from 8:30 AM-6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough, can be reached on (703)308-0505.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)308-1113.

14. Any response to this action should be mail to:

Commissioner of Patents and Trademarks

c/o Technology Center 3600

Washington, D.C. 20231

or faxed to:

(703) 305-7687, (for formal communications intended for entry)

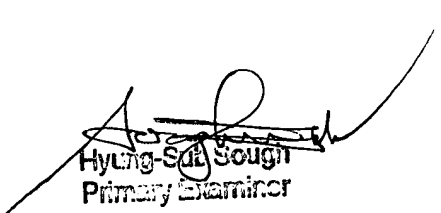
or:

(703) 308-3961 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, Seventh Floor (Receptionist).

Nga B. Nguyen
January 9, 2003


Hyung-Suk Sough
Primary Examiner